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Attorneys for Plaintiffs
Laborers Trust Funds

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

BOARD OF TRUSTEES OF THE
LABORERS HEALTH AND WELFARE
TRUST FUND FOR NORTHERN
CALIFORNIA; BOARD OF TRUSTEES OF
THE LABORERS VACATION-HOLIDAY
TRUST FUND FOR NORTHERN
CALIFORNIA; BOARD OF TRUSTEES OF
THE LABORERS PENSION TRUST FUND
FOR NORTHERN CALIFORNIA; and
BOARD OF TRUSTEES OF THE
LABORERS TRAINING AND RETRAINING
TRUST FUND FOR NORTHERN
CALIFORNIA,

Plaintiffs,

vs.

KURT ALBIN ERNST

Defendant.

Case No.: C 08 CV 00355 PJH

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT; ORDER
THEREON**

Date: December 18, 2008
Time: 2:30 p.m.
Ctroom: 3, 17th Floor
Hon. Phyllis J. Hamilton

Plaintiffs Laborers Trust Funds and Defendant Kurt Albin Ernst provide this Court with the following Joint Case Management Statement.

1. Background

Plaintiffs allege that Defendant was doing business as Ernst Mechanical and that he signed a memorandum agreement pursuant to which he became bound to a written collective

1 bargaining agreement with the Northern California District Council of Laborers entitled the
2 Laborers' Master Agreement For Northern California ("Master Agreement").

3 Plaintiffs allege that pursuant to the Master Agreement, defendant was bound and
4 subject to all provisions and conditions of the written trust agreements which established the
5 trust funds¹. Further, plaintiffs allege that pursuant to the Master Agreement and trust
6 agreements, defendant was bound to pay to the Trust Funds employee fringe benefit
7 contributions into each Trust Fund on behalf of his covered employees. Plaintiffs allege that
8 Ernst failed to report and therefore failed to pay employee fringe benefit contributions on behalf
9 of his covered workers.

10 Defendant contends that he has made all payments required of him under any and all of
11 the agreements he has made with Plaintiffs, or any of them.

12 **2. Procedural Status**

13 At the last case management conference on September 25, 2008, the parties advised this
14 Court that they would engage in informal discovery and settlement discussions. Defendant
15 provided Plaintiffs with additional information and documentation regarding the alleged
16 employee fringe benefit contributions due and owing. On November 19, 2008 Plaintiffs
17 forwarded to Defendant a revised audit showing the amount allegedly due and owing pursuant
18 to the revisions to the audit: \$34,639.43 in principal contributions; \$3,150 in liquidated
19 damages; and \$28,991.54 in interest.

20 Defendant disputes the existence and/or amount of the balance due. Defendant has
21 requested an additional 60 days to review the revised audit and attempt to resolve any further
22 issues regarding the audit. Plaintiffs have no objection to allowing Defendant an additional 60
23 days to review and provide the Plaintiffs with additional information and documentation in an
24 attempt to resolve this case prior to further litigation.

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¹ Each of the trust funds identified in the caption, above, was created by a Trust Agreement.

Defendant requests and Plaintiffs do not object to an additional 60-day stay of this action so that the parties may spend additional, and hopefully productive, time in trying to resolve any further issues regarding the revised audit.

If this case is not resolved within 60 days, the parties will prepare and submit a formal case management conference statement with proposed pre-trial and trial dates and further, will schedule an evaluation before Harlan Richter, the ENE assigned to this case by this Court.

BULLIVANT HOUSER BAILEY PC

By /s/
Ronald L. Richman
Susan J. Olson

Attorneys for Plaintiffs Laborers Trust Funds

DATED: December 8, 2008

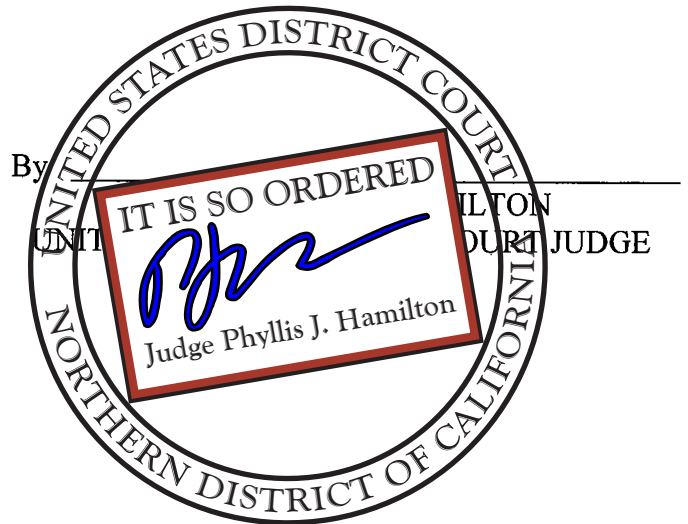
By Kenneth D. Robin /s/

Attorneys for Defendant Kurt Albin Ernst

ORDER

Good cause appearing, it is so ORDERED that the Case Management Conference currently set for December 18, 2008 at 2:30 p.m. is continued to February 5, 2009, at 2:30 p.m. in Courtroom 3, 17th Floor.

DATED: December 10, 2008



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